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484.001: Definition of Payable Abortions

(A) The Division pays for freestanding abortion clinic services provided to Medical Assistance recipients (categories of assistance 0, 1, 2, 3, 5, 6, 7, and 8) if all of the following conditions are met:

- (1) the abortion is a medically necessary abortion, or the abortion is performed upon a victim of rape or incest when such rape or incest has been reported to a law enforcement agency or public health service within 60 days of the incident;
- (2) the abortion is performed in accordance with M.G.L. c. 112, s. 12K through 12U, except as provided under 130 CMR 484.005(B); and
- (3) the abortion claim is made in accordance with 130 CMR 484.000.

(B) For the purposes of 130 CMR 484.000, a medically necessary abortion is one which, according to the medical judgment of a licensed physician, is necessary in light of all factors affecting the woman's health.

(C) Unless otherwise indicated, all abortions referred to in 130 CMR 484.000 are payable abortions as defined in 130 CMR 484.001(A) and (B).

(D) For information on reimbursable services for recipients of the Emergency Aid to the Elderly, Disabled and Children Program (category of assistance 4), see 130 CMR 450.111.

484.002: Assurance of Recipient Rights

No provider shall use any form of coercion in the provision of abortion services. Neither the Division nor any provider, nor any agent or employee of a provider, shall mislead any recipient into believing that a decision to have or not to have an abortion will adversely affect her entitlement to benefits or services for which she would otherwise be eligible. The Division has strict requirements for confidentiality of patient records for abortion services as well as for all other medical services payable under the Program.

484.003: Participation by Division Staff

Any employee or agent of the Division who objects on moral or religious grounds to participation in the furnishing of information or other assistance concerning abortion services to recipients, and who reports such objection to his or her superiors, shall not be required to participate in such activities. The refusal thereafter of such person to participate in such activities shall not form the basis for any disciplinary or recriminatory action against such person.

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484.004: Definition of Trimesters

The length of a normal pregnancy may be divided into three parts, referred to as trimesters. If the pregnancy has existed for less than 12 weeks, the pregnancy is in its first trimester. If the pregnancy has existed for 12 or more weeks, but less than 24 weeks, the pregnancy is in its second trimester. If the pregnancy has existed for 24 or more weeks, the pregnancy is in its third trimester.

484.005: Locations in Which Abortions May Be Performed

Abortions must be performed in compliance with the following.

(A) First-Trimester Abortion. A first-trimester abortion must be performed by a licensed and qualified physician in a clinic licensed by the Department of Public Health to perform surgical services, or in a hospital licensed by the Department of Public Health to provide medical/surgical services.

(B) Second-Trimester Abortion. A second-trimester abortion must be performed by a licensed and qualified physician in a hospital licensed by the Department of Public Health to provide medical/surgical services; provided, however, that up to and including the 18th week of pregnancy, a second-trimester abortion may be performed in a clinic that meets the requirements of 130 CMR 484.005(A) where the attending physician certifies in the medical record that, in his or her professional judgment, a nonhospital setting is medically appropriate in the specific case.

(C) Third-Trimester Abortion. A third-trimester abortion must be performed only to save the life of the mother or to eliminate substantial risk of grave impairment to her physical or mental health. A third-trimester abortion must be performed by a licensed and qualified physician only in a hospital licensed by the Department of Public Health to provide facilities for obstetrical services.

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484.006: Provider Certification Requirements

(A) Ambulatory Abortion Clinic. An ambulatory abortion clinic must be licensed by the Massachusetts Department of Public Health in compliance with the clinic licensure rules and regulations. In order to receive payment from the Division, an ambulatory abortion clinic must be enrolled as a participating provider in the Medical Assistance Program.

(B) Hospital. A hospital in which abortions are performed must be licensed by the Massachusetts Department of Public Health in compliance with the hospital licensure rules and regulations. In order to receive payment from the Division, a hospital must be enrolled as a participating provider in the Medical Assistance Program.

(C) Physician. In order to receive payment from the Division for abortion services, a physician must be enrolled as a participating provider in the Medical Assistance Program, and must meet one of the following requirements:

- (1) be permitted to perform abortions in a hospital setting by virtue of privileges granted him or her as a member of the hospital medical staff or as a member of an approved residency program in obstetrics or gynecology; or
- (2) be a physician who has had specialized training and has demonstrated the ability to perform such procedures.

484.007: Reimbursable Abortion-Related Services

(A) The Division will reimburse providers for the following abortion-related services when they are provided in conjunction with a payable abortion procedure:

- (1) pre-operative evaluation and examination;
- (2) pre-operative counseling;
- (3) laboratory services, including pregnancy testing, blood type, and Rh factor;
- (4) Rh<sub>o</sub> (D) immune globulin (human);
- (5) anesthesia (general or local);
- (6) post-operative care;
- (7) follow-up; and
- (8) advice on contraception or referral to family planning services.

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(B) Reimbursement for all of the above abortion-related services, with the exception of Rh<sub>o</sub> (D) immune globulin (human), is included in the all-inclusive abortion fees for ambulatory abortion clinics, as established by the Massachusetts Rate Setting Commission. For other providers (i.e., physicians, hospitals, and outpatient departments), the Division shall make payment for any of the above abortion-related services in accordance with the fee schedule appropriate to the provider's category (see 130 CMR 484.010).

#### 484.008: Report Requirement

(A) Completion of the Certification for Payable Abortion (CPA-2) Form. All providers (i.e., physicians, hospitals, outpatient departments, and ambulatory abortion clinics), must attach a completed Certification for Payable Abortion (CPA-2) form with each claim made to the Division for a payable abortion. To identify those abortions which meet federal reimbursement standards, specified in 42 CFR 449.100 through 449.109, the Division must secure on the CPA-2 form the certifications described in 130 CMR 484.008(A)(1), (2), and (3) when applicable. For all medically necessary abortions not included in 130 CMR 484.008(A)(1), (2), or (3), the certification described in 130 CMR 484.008(A)(4) is required on the CPA-2 form. The provider shall indicate on the CPA-2 form which of the following circumstances is applicable, and shall complete that portion of the form with the appropriate signatures:

- (1) Life of the Mother Would Be Endangered. The attending physician must certify that, in his or her professional judgment, the life of the mother would be endangered if the pregnancy were carried to term.
- (2) Severe and Long-Lasting Damage to Mother's Physical Health. The attending physician and another physician must each certify that, in his or her professional judgment, severe and long-lasting damage to the mother's physical health would result if the pregnancy were carried to term. At least one of the physicians must also certify that he or she is not an "interested physician," defined herein as one (a) whose income is directly or indirectly affected by the fee paid for the performance of the abortion; or (b) who is the spouse of, or another relative who lives with, a physician whose income is directly or indirectly affected by the fee paid for the performance of the abortion.

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(3) Victim of Rape or Incest. The provider is responsible for submitting with the claim form signed documentation from a law enforcement agency or public health service certifying that the person upon whom the procedure was performed was a victim of rape or incest which was reported to the agency or service within 60 days of the incident. (A public health service is defined as either an agency of the federal, state, or local government that provides health or medical services; or a rural health clinic, provided that the agency's principal function is not the performance of abortions.) The documentation must include the date of the incident, the date the report was made, the name and address of the victim and of the person who made the report (if different from victim), and a statement that the report included the signature of the person who made the report.

(4) Other Medically Necessary Abortions. The attending physician must certify that, in his or her medical judgment, for reasons other than those described in 130 CMR 484.008(A)(1), (2), and (3), the abortion performed was necessary in light of all factors affecting the mother's health.

(B) Availability of Certification for Payable Abortion (CPA-2) Form. A provider may obtain a supply of the Certification for Payable Abortion (CPA-2) form from:

Unisys  
ATTN: Forms Distribution  
P.O. Box 9101  
Somerville, MA 02145

#### 484.009: Out-of-State Abortions

(A) A facility located outside of Massachusetts is eligible to receive reimbursement for abortion services provided to Massachusetts recipients only if it is licensed by the governing or licensing agency in its state to perform abortions. An out-of-state facility must obtain a Massachusetts Medical Assistance provider number before it may receive such reimbursement from the Division.

(B) The Division will pay for a nonemergency abortion performed in an out-of-state facility only if it is a payable abortion and if prior authorization has been requested from and granted by the Division.

(1) The recipient or a referral agency may request prior authorization by telephone or in writing. The request should be made to: Division of Medical Assistance, Prior Authorization Unit, ATTN: Physician Services, 600 Washington Street, Boston, MA 02111 ((617) 348-5360). The facility may also make the prior-authorization request.

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(2) If the Division grants a prior-authorization request, it will issue a prior authorization slip directly to the out-of-state facility. In order to receive payment for an out-of-state abortion which requires prior authorization, the facility must attach the approved prior- authorization slip to the claim form.

(3) The Division will grant a prior-authorization request only when the abortion service needed by the recipient is not available in a Massachusetts facility.

(C) Consistent with regulations governing other aspects of the Medical Assistance Program, the Division grants an exception to the prior-authorization requirement for recipients who live in communities near the borders of the states of Connecticut, New Hampshire, New York, Rhode Island, or Vermont. Such recipients may seek abortion services at facilities in these states when the location of the out-of-state facility is closer to the recipient's residence than the nearest Massachusetts abortion facility which provides equivalent services and which is eligible to participate in the Medical Assistance Program.

#### 484.010: Reimbursement for Services

A provider of abortion services claiming reimbursement from the Division must bill according to the fee schedule appropriate to its provider category.

#### 484.011: Billing

Refer to 130 CMR 450.000 for billing regulations applicable to all providers. Providers of abortion services must bill the Division on the appropriate claim form, in accordance with the billing instructions.

#### REGULATORY AUTHORITY

130 CMR 484.000: M.G.L. c. 118E, ss. 7 and 12.